

NATURAL RESOURCES CODE  
SUBTITLE D. DISPOSITION OF THE PUBLIC DOMAIN  
CHAPTER 51. LAND, TIMBER, AND SURFACE RESOURCES  
SUBCHAPTER A. GENERAL PROVISIONS

Sec. 51.001. DEFINITIONS. In this chapter:

- (1) "Commissioner" means the Commissioner of the General Land Office.
- (2) "Land office" means the General Land Office.
- (3) "Board" means the School Land Board.
- (4) "Comptroller" means the Comptroller of Public Accounts of the State of Texas.
- (5) "Board of regents" means the board of regents of The University of Texas System.
- (6) "Public school land" means all land of the state that is dedicated to the permanent school fund.
- (7) "Appraiser" means a state certified or state licensed real estate appraiser who is employed by or contracts with the land office and who performs professional valuation services competently and in a manner that is independent, impartial, and objective.
- (8) "Surveyed land" means all or part of any tract of land surveyed either on the ground or by protraction and dedicated to the public school fund which is unsold and for which field notes are on file in the land office or that may be delineated on the maps of that office as such.
- (9) "Unsurveyed land" means any land that is not included in surveys on file in the land office or surveys delineated on maps of that office.
- (10) "Land" or "real property" means any interest in the physical land and appurtenances attached to the land, including improvements.
- (11) "Market value" has the meaning assigned by Section 1.04, Tax Code.

Acts 1977, 65th Leg., p. 2417, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 14.02, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 280, Sec. 1, eff. June 18, 2003; Acts 2005, 79th Leg., ch. 1098, Sec. 1, eff. June 18, 2005.

SUBCHAPTER B. PROVISIONS GENERALLY APPLICABLE TO THE MANAGEMENT OF  
PUBLIC SCHOOL AND ASYLUM LAND

Sec. 51.011. MANAGEMENT OF PUBLIC SCHOOL LAND. (a) Any land that is set apart to the permanent school fund under the constitution and laws of this state together with the mineral estate in riverbeds, channels, and the tidelands, including islands, shall be subject to the sole and exclusive management and control of the school land board and the commissioner under the provisions of this chapter and other applicable law.

(a-1) The board may acquire, sell, lease, trade, improve, or otherwise manage, control, or use land that is set apart to the permanent school fund in any manner, at such prices, and under such terms and conditions as the board finds to be in the best interest of the fund.

(a-2) Not later than October 15 of each year, the board shall report to the Legislative Budget Board the sale of any land that is set apart to the permanent school fund for less than appraised value or the purchase of any land that is set apart to the permanent school fund for more than appraised value during the preceding state fiscal year.

(b) Notwithstanding any other provision of this chapter, land within 2,500 feet of a military base may not be sold or leased and an easement over the land may not be granted unless the commissioner or the commissioner's designee, after consultation with appropriate military authorities, determines that the grant will not adversely affect the mission of the military base.

(c) Any public land may be sold or leased, or an easement over the property may be granted, to the United States for the use and benefit of the United States armed forces if the commissioner or the commissioner's designee, after consultation with appropriate military authorities, determines that the sale, lease, or easement would materially assist the military in accomplishing its mission. A sale, lease, or easement under this subsection must be at market value. The state shall retain all minerals it owns with respect to the land, but it may relinquish the right to use the surface to extract them.

(d) The commissioner shall determine whether a conveyance under this section takes priority over any preference otherwise

granted by law, including the preferential right of a surrounding landowner. In making the determination, the commissioner must only consider the interests of preference holders who assert their preferences in writing after notice of the proposed conveyance is published in a newspaper of general circulation in the area. The commissioner shall, in the commissioner's discretion, balance the competing interests of the preference holders and the military. The commissioner's determination is final. After land is conveyed to the military, all competing preferences terminate.

Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 149, Sec. 13, eff. May 27, 2003; Acts 2003, 78th Leg., ch. 280, Sec. 2, eff. June 18, 2003; Acts 2005, 79th Leg., ch. 1098, Sec. 3, 4, eff. June 18, 2005.

Sec. 51.012. COMMISSIONER'S AUTHORITY. Subject to the authority of the board and to exceptions and restrictions that may be imposed by the constitution and laws of this state, the commissioner is vested with the authority necessary to carry out the provisions of this chapter relating to the sale and lease of public school land and to the protection of this land from free use and occupancy and from unlawful enclosure.

Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 3, eff. June 18, 2003.

Sec. 51.0125. LAND USED BY STATE AGENCY. Land that belongs to the permanent school fund as a result of having been deeded or given to the state and that has been used in the past by a state agency shall be first offered for sale or lease to state agencies before it can be sold or leased to any other party. No permanent school fund land may be used by a state agency without market value compensation to the permanent school fund.

Added by Acts 1993, 73rd Leg., ch. 991, Sec. 12, eff. Sept. 1, 1993. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 4, eff. June 18, 2003.

Sec. 51.013. CLASSIFICATION AND VALUATION OF LAND. (a) As the public interest may require, the commissioner shall classify or reclassify all public school land and shall include a designation of the land, including a classification as agricultural, grazing, timber, or a combination of these classifications based on the facts in the particular case.

(b) After the classification and determination of market value is entered on the records of the land office, no further action needs to be taken by the commissioner and no notice is required to be given to the county clerk for the classification and determination of market value to be effective.

Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 5, eff. June 18, 2003.

Sec. 51.014. RULES. (a) The commissioner may adopt rules necessary to carry out the provisions of this chapter and may alter or amend the rules to protect the public interest.

(b) Before rules are adopted under Subsection (a) of this section, the commissioner shall submit the rules to the governor for his approval.

Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.015. FORMS. The commissioner shall adopt forms that are necessary or proper to transact business that he is required to transact and may request that the attorney general prepare the forms.

Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.016. DUTIES OF THE ATTORNEY GENERAL. The attorney general shall furnish the commissioner with advice and legal assistance that may be required to execute the provisions of this chapter.

Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.017. FURNISHING DATA TO BOARD OF EDUCATION. On request, the commissioner shall furnish to the State Board of Education all available data.

Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.018. RECORDS AND ACCOUNTS. The commissioner shall keep in his custody as records of his office each application, affidavit, obligation, and paper relating to the sale and lease of

public school land and shall keep accurate accounts with each purchaser or lessee.

Acts 1977, 65th Leg., p. 2418, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 6, eff. June 18, 2003.

Sec. 51.019. SPECIAL FEE. Each bidder on a mineral lease or land sale by the board shall remit by separate check a special sale fee in the amount and in the manner provided in Section 32.110 of this code.

Acts 1977, 65th Leg., p. 2419, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 624, Sec. 32, eff. Sept. 1, 1985.

Sec. 51.020. REFUNDS. (a) On presentation of proper proof, money paid in good faith to a fund in the State Treasury for public land or by a lessee of public land or minerals to which the fund is not entitled may be offset or credited by the commissioner against other sums owing or shall be refunded by the comptroller in the following instances:

(1) if an error is made in good faith and the refund, stating to whom payment is to be made, is supported by the official signature of the commissioner or the attorney general;

(2) if the payment is made according to law but title cannot issue or possession cannot pass because of a conflict in boundaries, an erroneous sale, an erroneous lease, or other cause;

(3) if there is a sale of leased land;

(4) if lease money is paid on a previous forfeited sale and the sale has been reinstated and the interest paid;

(5) if erroneous timber sales or leases have been made;

(6) if overpayments have been made in final payments to the comptroller because of decreased acreage or other cause;

(7) if reduction has been made in acreage of timber sold or leased; or

(8) if payments are made in good faith by claimants of land where the applicants have no right to purchase the land as revealed by investigation of title.

(b) After specific appropriations are made according to law, refunds shall be paid from the funds to which the payments have been credited.

(c) Any claim for refund except a refund covered by Subdivision (1) of Subsection (a) of this section shall be certified by the commissioner, verified by the affidavit of the claimant, and approved by the attorney general as to the correctness and as to whom the refund is due.

(d) In the event of a failure of title or right of possession, money paid by any purchaser or lessee who subsequently sells the land or assigns the lease shall be refunded to the person on whom the loss falls.

Acts 1977, 65th Leg., p. 2419, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1991, 72nd Leg., ch. 642, Sec. 5, eff. Aug. 26, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 14.03, eff. Sept. 1, 1997.

#### SUBCHAPTER C. SALE OF PUBLIC SCHOOL AND ASYLUM LAND

Sec. 51.051. SALE OF LAND. All sales of land described in Section 51.011 shall be made by or under the direction of the school land board.

Acts 1977, 65th Leg., p. 2419, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2005, 79th Leg., ch. 1098, Sec. 5, eff. June 18, 2005.

Sec. 51.052. CONDITIONS FOR SALE OF LAND. (a) Land sold under the provisions of this subchapter shall be sold without condition of settlement and residence.

(b) A purchaser of land under this subchapter may make a down payment of an amount determined by the board and the board may set the terms and conditions of the sale, including the interest rate. On full payment and satisfaction of other conditions, the purchaser is entitled to a patent for the land. This subsection does not prevent the board from requiring a tract of land to be purchased for cash.

(c) Repealed by Acts 1987, 70th Leg., ch. 208, Sec. 14, eff. Aug. 31, 1987.

(d) Before the land under this chapter is sold, the appraiser must appraise the land at its market value and file a copy of the appraisal with the commissioner.

(e) The owner of land that surrounds land in a tract shall

have a preference right to purchase the tract before the land is made available for sale to any other person, provided the person having the preference right pays not less than the market value for the land as determined by the board and the board finds use of the preference to be in the best interest of the state. The board shall adopt rules to implement this preference right.

(f) If the surrounding land is owned by more than one person, the owners of land with a common boundary with a tract of 1,200 acres or less that is for sale shall have a preference right to purchase the tract before it is made available to any other person, provided the person with the preference right pays not less than the market value of the land as determined by the board and the board finds use of the preference to be in the best interest of the state. The board shall adopt rules to implement this preference right.

(g) If land is located within the boundaries of or adjacent to any state park, refuge, natural area, or historical site subject to the management and control of the Parks and Wildlife Department, the department has a preference right to purchase the land before it is made available for sale to any other person. A sale to the department under this section may not be for less than the market value of the land, as determined by the board.

(h) The board may sell or exchange any interest in the surface estate of public school land directly to any state agency, board, commission, or political subdivision or other governmental entity of this state without the necessity of a sealed bid sale. All sales or exchanges made pursuant to this subsection shall be for not less than market value as determined by the board and under such other terms and conditions the board determines to be in the best interest of the state.

(i) If no bid meeting minimum requirements is received for a tract of land offered at a sealed bid sale under Subchapter D of Chapter 32, or if the transaction involves commercial real estate and the board determines that it is in the best interest of the permanent school fund, the asset management division of the land office may solicit proposals or negotiate a sale, exchange, or lease of the land to any person. The asset management division may contract for the services of a real estate broker or of a private brokerage or real estate firm to assist in a transaction under this subsection. The board must approve any negotiated sale, exchange, or lease of any land under this section.

(j) The board, in its sole discretion and in the best interests of the permanent school fund as determined by the board and without regard to requirements of local governments as to the necessity of any such dedication, may dedicate permanent school fund land to any governmental unit for the benefit and use of the public in exchange for nonmonetary consideration with a value reasonably equivalent to or greater than the market value of the dedicated land, if the board determines that such an exchange would benefit the permanent school fund. The asset management division of the land office shall determine the value of the nonmonetary consideration and shall file a copy of its determination with the commissioner. Examples of public purposes for which permanent school fund land may be dedicated under this subsection include but are not limited to: (1) rights-of-way for public roads, utilities, or other infrastructure; (2) public schools; (3) public parks; (4) government offices or facilities; (5) public recreation facilities; and (6) residential neighborhood public amenities.

(k) If an award of a bid under this section does not result in a final transaction, the asset management division of the land office may contract for the services of a real estate broker or of a private brokerage or real estate firm to assist in the real estate transaction.

(l) If the board leases land under this subchapter and the lease includes the right to produce groundwater from the land, the lessee shall comply with the statutory provisions governing and the rules adopted by the groundwater conservation district, if any, in which the land is located, including the statutory provisions and rules governing the production and use of groundwater and the transfer of groundwater out of the district.

Acts 1977, 65th Leg., p. 2419, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5242, ch. 965, Sec. 1, eff. June 19, 1983; Acts 1987, 70th Leg., ch. 208, Sec. 14, eff. Aug. 31, 1987; Acts 1989, 71st Leg., ch. 383, Sec. 4, eff. June 14, 1989; Acts 1991, 72nd Leg., ch. 633, Sec. 5, eff. Aug. 26, 1991;

Acts 1993, 73rd Leg., ch. 991, Sec. 13, eff. Sept. 1, 1993; Acts 1995, 74th Leg., ch. 293, Sec. 1, eff. Aug. 28, 1995; Acts 2003, 78th Leg., ch. 280, Sec. 7, eff. June 18, 2003; Acts 2005, 79th Leg., ch. 1098, Sec. 6, eff. June 18, 2005.

Sec. 51.054. RESERVATION OF MINERALS. (a) Except as otherwise provided in this section, land dedicated to the permanent school fund shall be sold subject to a reservation set by the board of not less than one-eighth of all sulphur and other mineral substances from which sulphur may be derived or produced and not less than one-sixteenth of all other minerals to the state; provided, that if leasing rights are retained hereunder, the reserved minerals shall be subject to lease as provided by Subchapter B, Chapter 52, Natural Resources Code, and Subchapters B and E, Chapter 53, Natural Resources Code. The mineral reservation to the state shall be determined by the board before the land is offered for sale. If the board determines that a mineral reservation under this section would substantially reduce the value of the surface of land by restricting its suitability for agricultural, commercial, or residential use, the board may take such action or waive such rights as are in the best interest of the permanent school fund, including, without limitation, establishing designated exploration or drilling sites, waiving surface or other rights of access or development, or conveying the land with no mineral reservation.

(b) Land that is set apart for the various asylum funds shall be sold with the oil, gas, coal, and all other minerals reserved to the fund to which the land belongs.

(c) The provisions of this section do not apply to oil and gas sold from public school land covered by Subchapter F, Chapter 52, of this code.

(d) The provisions of this section do not apply to vacancies covered by Section 51.201 of this code.

(e) An oil, gas, or other mineral lease on land in which the state reserves a mineral or royalty interest is not effective until a certified copy of the recorded lease is filed in the General Land Office.

Acts 1977, 65th Leg., p. 2420, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5243, ch. 965, Sec. 2, eff. June 19, 1983; Acts 1985, 69th Leg., ch. 923, Sec. 3, eff. Aug. 26, 1985; Acts 1995, 74th Leg., ch. 354, Sec. 3, eff. Aug. 28, 1995; Acts 2003, 78th Leg., ch. 280, Sec. 8, eff. June 18, 2003.

Sec. 51.0551. LISTS OF PUBLIC LAND OFFERED FOR SALE: CRIMINAL PENALTIES. (a) A person, including a corporation or an association, commits an offense if he reproduces, prints, or prepares or sells or furnishes a printed, multigraphed, or mimeographed list prepared by or under the direction of the commissioner offering for sale or lease any state or public school land.

(b) This section does not prohibit the commissioner or land board from advertising in a newspaper or otherwise as is provided by law nor a newspaper or periodical from publishing the list in a regular issue as a news item.

(c) An offense under this section is a misdemeanor punishable by a fine of not more than \$1,000.

Added by Acts 1983, 68th Leg., p. 1021, ch. 235, art. 5, Sec. 1(a), eff. Sept. 1, 1983.

Sec. 51.056. APPLICATION TO PURCHASE LAND. (a) A person who wants to purchase public school land shall submit to the commissioner a separate written application for each tract.

(b) Each application shall:

(1) designate the land to be purchased;

(2) state the bid offered;

(3) include an affidavit disclosing the names of all persons or entities either directly or indirectly interested in the purchase of the land.

(c) The sale of the land is effective from the date of the receipt and filing of the application, affidavit, obligation, and the payment of the initial portion of the price offered.

(d) The application to purchase and the notice of award shall state that the land is sold without condition of settlement and with a reservation of minerals, as determined by the board.

Acts 1977, 65th Leg., p. 2420, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5243, ch. 965, Sec. 3, eff. June 19, 1983; Acts 1987, 70th Leg., ch. 208, Sec. 5, eff. Aug. 31, 1987; Acts 2003, 78th Leg., ch. 280, Sec. 9, eff. June 18, 2003.

Sec. 51.057. DELIVERY OF APPLICATIONS. (a) An application for the purchase of public school land shall be delivered to the land office in a sealed envelope addressed to the commissioner with the words "application to buy land" and the date the land is to be sold endorsed on the envelope. Applications that do not have the required endorsements are nevertheless valid.

(b) The envelopes shall remain unopened and the applications unfiled, and the commissioner or his chief clerk shall keep the envelopes and applications in a safe and secure manner until the date of sale.

Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 10, eff. June 18, 2003.

Sec. 51.058. METHOD FOR MAKING FIRST PAYMENT. (a) An applicant shall submit with his application the required first payment in the form of money or remittance collectible on demand in Austin and convertible at par into money on order of the comptroller without liability.

(b) If a remittance is made payable to the commissioner, the payment is not invalid for that reason, but the commissioner shall endorse it to the comptroller without incurring liability and the remittance shall be treated as if it were payable to the comptroller.

(c) An application is void if the payment is not made as provided in this section.

Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 14.04, eff. Sept. 1, 1997.

Sec. 51.059. OPENING APPLICATIONS. (a) On the date of sale, the application envelopes shall be opened and the applications shall be filed and the information entered on the docket of the board as provided in Section 32.108 of this code.

(b) Any person who desires to be present at the time the envelopes are opened may do so.

Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.060. RECORDATION OF FIRST PAYMENTS. (a) After each application envelope is opened and the first payment for the land is in the land office, the commissioner shall have the payment listed on a daily list which shall be made in triplicate, showing the name and address of each applicant and the purpose for which each payment is made and shall transmit to the comptroller all of the payments together with two of the lists.

(b) On receiving the payments and the lists, the comptroller shall compare the payments with the lists, and if the comptroller finds that the payments and the lists are correct, he shall receipt one of the lists and return it to the commissioner and shall retain the other list.

Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 14.05, eff. Sept. 1, 1997.

Sec. 51.061. COLLECTION OF REMITTANCES. (a) The comptroller shall immediately collect all collectible remittances and shall report to the commissioner all remittances not collectible in Austin.

(b) Any remittances that cannot be collected shall be returned to the commissioner.

Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 14.06, eff. Sept. 1, 1997.

Sec. 51.062. DISPOSITION OF FIRST PAYMENTS. (a) The comptroller shall retain all first payments he has collected until the commissioner notifies him of the final disposition of the applications to purchase land.

(b) After the comptroller is notified, he shall return to each applicant whose application is rejected the amount of his first payment.

(c) On the last working day of each month, the comptroller shall deposit in the State Treasury to the credit of the proper fund the amount collected by him on accepted applications during that month.

Acts 1977, 65th Leg., p. 2421, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 14.07, eff. Sept. 1, 1997.

Sec. 51.063. DUPLICATE HIGH BIDS. If two or more applicants

submit the same bid for a tract of land and the bids are the highest bids offered on the sale date, the school land board shall reject all of the bids and the land shall be offered for sale on the next sale date. Any subsequent bid for the land may not be considered if it is less than the high bids rejected under this section. Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.064. INDIVIDUAL BIDS. (a) Any public school land offered for sale for which no application is made under Section 51.056 of this code may be sold to any person who files a proper application in the land office in the manner provided by law.

(b) A person who files an application under this section is not required to have any memorandum on the envelope containing the application.

(c) If two or more applications are filed under this section on the same day for the same land, the person offering the highest price shall have his offer accepted, but if two or more persons offer the same price for the land, the commissioner and the school land board shall proceed in the manner provided by this chapter for the first filing.

Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 11, eff. June 18, 2003.

Sec. 51.065. NOTICE AND RECORD OF SALE. (a) The commissioner shall notify the county clerk of the proper county of the sale of each tract of land, the name and address of the purchaser, and the price of the land.

(b) After being informed of any sale of public school land, the county clerk shall enter in his books opposite the description of the land sold, the name of the purchaser and the date of the sale.

(c) The notice of sale and the book containing the entry are public records.

Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 12, eff. June 18, 2003.

Sec. 51.066. NOTICE OF AWARD. (a) The commissioner shall prepare and issue a notice of award for each tract of land sold.

(b) Each notice of award shall be appropriately numbered and shall be worded in a manner that will constitute a receipt for the first payment after it is signed by the commissioner.

(c) One copy of the notice of award shall be retained in the land office and the other copy shall be sent to the purchaser.

Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.067. INFORMATION REQUIRED WITH PAYMENTS. A person who is making a payment of principal, interest, or lease rental on land shall give the name of the original purchaser or lessee and shall sufficiently designate the land.

Acts 1977, 65th Leg., p. 2422, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.068. FUND ACCOUNTS. (a) Payments of principal, interest, and lease rental shall be accounted for in a similar form but separate from first payments on land.

(b) The comptroller shall deposit 80 percent of all these payments received each month to the probable fund to which they belong as indicated by the commissioner and shall hold the remaining 20 percent in the suspense account until definite notice is received from the commissioner as to the proper fund. After definite notice is received, the comptroller shall credit the full amount to the proper fund.

(c) The commissioner shall give definite notice to the comptroller immediately after he issues receipts to the persons making the payments.

(d) The commissioner and comptroller shall keep an account with each fund according to advices given by them and shall retain the advices as permanent records.

Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1991, 72nd Leg., ch. 641, Sec. 24, eff. Sept. 1, 1991; Acts 1997, 75th Leg., ch. 1423, Sec. 14.08, eff. Sept. 1, 1997.

Sec. 51.069. DISPOSITION OF PAYMENTS ON PUBLIC SCHOOL LAND. Payments on public school land received by the commissioner, including payments received as interest on the purchase of public school land, shall be transmitted to the comptroller to be credited to the permanent school fund.

Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1997, 75th Leg., ch. 1423, Sec. 14.09, eff. Sept. 1, 1997; Acts 2003, 78th Leg., ch. 328, Sec. 5, eff. Jan. 1, 2004.

Sec. 51.070. UNPAID PRINCIPAL AND INTEREST ON PUBLIC SCHOOL LAND SALES. (a) Unpaid and delinquent principal and interest on sales of public school land shall bear interest at a rate set by the board, which principal and interest shall be payable at the times and on such terms as are established by the board by rule or by contract.

(b) No patent may be issued for any public school land until all unpaid principal and compounded interest is paid to the time of issuing the patent.

(c) Any unpaid principal and interest is considered delinquent on the 30th day after the date payment of the principal and interest is due for the obligation.

(d) After the payment of principal and interest becomes delinquent under the obligation, notice of delinquency and subsequent potential forfeiture must be provided by certified mail, return receipt requested, to the last known address of the obligee and must be documented in the records of the land office.

Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5244, ch. 965, Sec. 4, eff. June 19, 1983; Acts 1995, 74th Leg., ch. 354, Sec. 1, eff. Aug. 28, 1995; Acts 2003, 78th Leg., ch. 280, Sec. 13, eff. June 18, 2003.

Sec. 51.071. FORFEITURE OF LAND. (a) If principal and interest on a sale of land is not paid when due, the land is subject to forfeiture by the commissioner by entry on the wrapper containing the papers "Land Forfeited" or similar words, the date of the forfeiture, and the official signature of the commissioner.

(b) After the entry is made on the wrapper, the land and all payments that have been made for it are forfeited to the state, and the land may be offered for sale on a subsequent sale date.

Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 5244, ch. 965, Sec. 5, eff. June 19, 1983; Acts 2003, 78th Leg., ch. 280, Sec. 14, eff. June 18, 2003.

Sec. 51.072. EFFECT OF FORFEITURE. In cases of forfeiture, the original obligations and reinstatement fees are as binding as if no forfeiture occurred.

Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 15, eff. June 18, 2003.

Sec. 51.073. CLASSIFICATION AND SALE OF LEASED AND FORFEITED LAND. (a) Before it is sold, the commissioner shall classify and determine the market value of land on which leases have been cancelled or have expired and land forfeited to the state.

(b) Except as provided in Section 51.064 of this code, no land may be sold until it is advertised.

Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 16, eff. June 18, 2003.

Sec. 51.074. REINSTATEMENT OF LAND PURCHASES. (a) If no rights of third persons have intervened, the purchasers or their vendees, heirs, or legal representatives, who claim land that has been forfeited for nonpayment of principal and interest, may have the claim reinstated on written request by paying into the State Treasury the amount of all principal and interest due on the claim up to the date of reinstatement.

(b) The right to reinstate a claim under this section is limited to the last purchaser from the state, or his vendees, heirs, or legal representatives, and must be exercised within six months from the date of the forfeiture.

Acts 1977, 65th Leg., p. 2423, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 17, eff. June 18, 2003.

Sec. 51.075. FORFEITURE OF A DECEASED PURCHASER'S LAND. (a) If a purchaser of land dies, the heirs or legal representatives of the deceased have one year following November 1 after the purchaser's death in which to make payment before the commissioner declares the land to be forfeited.

(b) If the forfeiture is declared by the commissioner within the time period stated in Subsection (a) of this section, it will be set aside on proper proof of death if no rights of third parties



have intervened.

Acts 1977, 65th Leg., p. 2424, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.076. LEGAL PROCEEDINGS. None of the provisions of Sections 51.071 through 51.072 and 51.074 through 51.075 of this code shall prevent the state from instituting legal proceedings necessary:

(1) to enforce a forfeiture;

(2) to recover the full amount of principal and interest that may be owed to the state at the time the forfeiture occurred; or

(3) to protect another right to the land.

Acts 1977, 65th Leg., p. 2424, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 18, eff. June 18, 2003.

Sec. 51.077. LIEN. To secure the payment of principal and interest due on a sale of public school land and university land the state has an express lien for the use and benefit of the fund to which the land belongs. The lien is in addition to any right and remedy that the state has for enforcement of the payment of principal and interest due and unpaid, up to and including the period required to reinstate the land award and obligation.

Acts 1977, 65th Leg., p. 2424, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 19, eff. June 18, 2003.

Sec. 51.0771. REINSTATEMENT FEE. (a) A reinstatement fee is due when a forfeited award is reinstated. The reinstatement fee is calculated at one and one-half percent of all amounts delinquent at the time of the reinstatement.

(b) The comptroller must receive the reinstatement fee before the forfeited award is reinstated.

(c) Amounts received in the form of a reinstatement fee are considered proceeds from the sale of permanent school fund land and shall be deposited in the permanent school fund.

Added by Acts 2003, 78th Leg., ch. 280, Sec. 20, eff. June 18, 2003.

Sec. 51.078. TRANSFER OF INDEBTEDNESS. (a) If a person or the Federal Farm Loan Bank, with the consent of the owner of land covered by Section 51.077 of this code, pays to the state the principal and interest due on any obligation given for the land, the commissioner, on written request of the owner, may execute, acknowledge, and deliver to the person or the Federal Farm Loan Bank a written transfer of the indebtedness held by the state. The written request of the owner shall be acknowledged in the manner required for the conveyance of real estate and shall be accompanied by an affidavit of ownership.

(b) The person or the Federal Farm Loan Bank is subrogated to all the rights, liens, and remedies held by the state to secure and enforce the payment of the principal and interest that was paid to the state.

(c) If the land claimed by a person claiming to be the owner is held under evidence of title that the law or rules of the land office do not authorize to be filed in the land office, the commissioner may admit the owner to be the person that the person or the Federal Farm Loan Bank paying the indebtedness admits to be the owner, and on making this admission the instrument of transfer shall be executed.

(d) None of the provisions of this section shall change any part of the law or rules that apply to the land office with relation to titles to land and issuance of patents.

Acts 1977, 65th Leg., p. 2424, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.079. TRANSFERS GENERALLY. (a) An owner of public school land purchased from the state may sell the land or a definite portion of the land in any size tract.

(b) If land to be sold is separated from another portion of land but is not sufficiently designated by metes and bounds in the papers offered to be filed so that it may be identified with certainty, the commissioner shall require that proper field notes accompany the papers before he files them and separates the land.

Acts 1977, 65th Leg., p. 2425, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 21, eff. June 18, 2003.

Sec. 51.080. PERSONAL TRANSFERS. (a) A vendee who obtains through personal transfer a whole survey or a whole portion of a survey purchased from the state as a whole or who obtains through

personal transfer a portion of a survey purchased from the state as a whole or in a quantity less than the whole survey is entitled to become a substitute purchaser directly from the state in the manner provided in this section.

(b) With the approval of the commissioner, the vendee may file in the land office a complete chain of title through personal transfers that have been duly executed and recorded in the counties in which the land or a part of the land is located and shall pay the fees provided by law.

(c) After the papers are filed in the land office, the substituted purchaser shall have his portion of land separated from the other portion of land, if any, on the records of the land office and shall assume and be liable to the state for all unpaid principal and interest due the state for the land conveyed by the deeds that are filed, together with all obligations and penalties attaching to the original purchase.

(d) The obligation of the original purchaser and the obligation of all vendors of the substituted purchaser are enforceable against the substituted purchaser as if he were the original purchaser from the state, and the obligation of the vendor or vendors of the substituted purchaser are canceled.

Acts 1977, 65th Leg., p. 2425, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.081. TRANSFERS OTHER THAN PERSONAL TRANSFER. A person who claims title through a source other than by personal transfer to a definite portion of a survey that is less than the whole survey purchased from the state, with the approval of the commissioner, may have the portion of land that he claims separated from the other portion of the survey on the records of the land office by filing in the land office evidence of claims that may be required by the commissioner and by paying the fees provided by law for papers filed as evidence of the claim or a right to a separation of the area.

Acts 1977, 65th Leg., p. 2425, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.082. LIABILITY OF VENDEE. After a separation of land is made on the records of the land office, the portion that is separated shall be charged and credited with its pro rata part of the principal and interest due and paid to November 1 preceding the date of the filing of the transfers or other papers.

Acts 1977, 65th Leg., p. 2425, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.083. PATENT ON PART OF A TRACT. (a) If an owner or claimant of land whose ownership or claim is shown on the records of the land office desires a patent on a portion of the whole tract, the owner or claimant, with the approval of the commissioner, may file field notes for the portion of the tract on which the patent is desired, together with the filing fee required by law, and may obtain a patent for the portion of the tract after the full price is paid, together with all fees required by law.

(b) If the ownership of the tract is evidenced by personal transfer, the patent shall be issued to the owner and his assigns, but if the claimant claims title through other evidence than by personal transfer, the patent shall be issued in the name of the person and his assigns who hold title by original purchase or in the name of the person and his assigns who appear on the records to hold title through the last personal transfer.

(c) If a patent is issued in the name of any person other than the legal owner, the patent and the rights granted in the patent inure to the benefit of the legal owner.

Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.084. SALE WITHOUT CONDITION OF RESIDENCE. No sale made without condition of settlement may be questioned by the state or any person after one year from the date of the sale.

Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.085. TIME FOR PURCHASE OF LAND. Each purchaser of land has the option of paying the purchase price in full at any time, together with all fees, and obtaining a patent for the land.

Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.086. SALE OF ESCHEATED PERMANENT SCHOOL LAND. (a) All sales of escheated land that is a part of the permanent school fund must be made to the highest bidder at a price that may not be

less than the greater of \$2.50 an acre or the minimum price set by the court under Section 71.107, Property Code.

(b) On a contract for sale of escheated permanent school land, the initial payment must be in cash and may not be less than one-tenth of the purchase price. The purchaser shall pay the balance of the purchase price in nine equal annual installments and shall pay interest on the deferred amount at the rate set by the board.

(c) When escheated permanent school land is sold, this state shall reserve all minerals in the land for the permanent school fund.

Added by Acts 1983, p. 3729, ch. 576, Sec. 4, eff. Jan. 1, 1984. Amended by Acts 2003, 78th Leg., ch. 1276, Sec. 13.002(a), eff. Sept. 1, 2003.

#### SUBCHAPTER D. LEASE OF LAND

Sec. 51.121. LEASE OF UNSOLD LAND. (a) Unsold public school land may be leased for any purpose the commissioner determines is in the best interest of the state under terms and conditions set by the commissioner. Commercial improvements on land under this subsection shall not become the property of the state and shall be taxed in the same manner as other private property.

(b) Commercial improvements on land leased under Subsection (a) of this section shall be removed prior to the expiration of the lease unless a renewal or an extension of the lease has been finalized prior to the expiration of the term of the lease. If commercial improvements are not removed prior to the expiration of the lease and if there has been no renewal or extension prior to the expiration of the lease, then the commercial improvements on the land shall become property of the state.

(c) If escheated land that is a part of the permanent school fund is leased under this chapter for a purpose other than for grazing, the period of the lease may not exceed two years. The lessee shall pay rent under the lease in money.

(d) In leases granted under this subchapter that are for terms of 20 years or more, the commissioner may grant the lessee a preference right to purchase the leased premises. In order to grant this preference right, the commissioner must include such a provision in the lease. The provision may provide that the preference right to purchase may be exercised at any time during the term of the lease. If the commissioner does include the preference right to purchase in the lease, the lessee shall have a preference right to purchase the leased premises before the leased premises are made available for sale to any other person. All sales under this subsection must be for not less than market value as determined by an appraiser and under any other terms and conditions that the commissioner deems to be in the best interest of the state. The preference right to purchase granted under this subsection is superior to any other preference right to purchase granted under any other section of this code or under any other law. Nothing in this subsection shall be construed to allow the commissioner to grant a preference right to purchase submerged land.

(e) Subject to the provisions of Title 2, Utilities Code, any district created by Section 59, Article XVI, Texas Constitution, that leases unsold public school land for power generation through the use of renewable energy sources, such as wind, solar, or geothermal energy and other sustainable sources, or a district participating in a power generation project using renewable energy sources which is located on unsold public school lands may distribute and sell electric energy generated on public school lands within or without the boundaries of the district and may issue bonds to accomplish such purposes pursuant to Chapter 1371, Government Code, or other applicable law. For any such power generation project which is located on both public lands and private lands, the district may sell outside its boundaries only the pro rata portion of the total amount as is generated on the public lands. All electric energy generated pursuant to this section shall be sold for resale only to utilities authorized to make retail sales under Title 2, Utilities Code, and shall be subject to the solicitation process and integrated resource planning process authorized by that title.

Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1979, 66th Leg., p. 472, ch. 215, Sec. 1, eff. May 17, 1979; Acts 1983, 68th Leg., p. 3729, ch. 576, Sec. 5, eff. Jan. 1, 1984; Acts 1985, 69th Leg., ch. 624, Sec. 33, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 208, Sec. 4, eff. Aug. 31, 1987;

Acts 1993, 73rd Leg., ch. 991, Sec. 14, eff. Sept. 1, 1993; Acts 1999, 76th Leg., ch. 62, Sec. 18.40, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 8.352, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 280, Sec. 22, eff. June 18, 2003.

Sec. 51.122. ADVERTISEMENT OF LEASES. Leases under the provisions of this subchapter may be advertised in the manner provided in Section 32.107 of this code. Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.123. LEASE APPLICATION. A person who desires to lease land shall submit a written application to the commissioner specifying and describing the particular land he desires to lease. Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.124. AWARD OF LEASE. (a) A lease shall be awarded to the highest responsible bidder.

(b) The lease shall be awarded under the rules and in the quantities the commissioner considers to be in the best interest of the state and not inconsistent with the equities of the occupant. Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 624, Sec. 33, eff. Sept. 1, 1985.

Sec. 51.125. REJECTION OF BID OR OFFER TO LEASE. Any bid or offer to lease may be rejected by the commissioner for fraud, collusion, or other good and sufficient cause before the lease is signed. Acts 1977, 65th Leg., p. 2426, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 624, Sec. 33, eff. Sept. 1, 1985.

Sec. 51.126. NOTIFICATION OF ACCEPTANCE AND EXECUTION OF LEASE. After the applications are received, the commissioner shall give written notification to the successful applicant that his bid or offer to lease is accepted and execute a lease to the applicant in the name and by the authority of the State of Texas. Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.127. RECORDING LEASE. (a) After the lessee has paid the rent for the land for a year in advance, the commissioner shall deliver the lease to the clerk of the county in which the land is located.

(b) When a lease is filed for record, the clerk shall prepare a memorandum or abstract of the lease and shall record the memorandum or abstract in a well-bound book or on microfilm kept in his office.

(c) The memorandum or abstract shall contain:

- (1) the number of the survey leased;
- (2) the name of the original grantee;
- (3) the amount of land leased;
- (4) the name of the lessee;
- (5) the date of the lease; and
- (6) the term of years the lease is to run.

(d) On payment of the fee required by law, the clerk shall deliver the lease to the lessee.

(e) Except for the record made under this section, no other record of a lease is required.

Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.128. CANCELLATION OF LEASE. (a) If a lessee fails to pay rent within 15 days after it is due, the lessee shall owe a penalty of 10 percent of the amount due.

(b) If a lessee fails to pay the rent within 60 days after it is due, the commissioner shall cancel the lease in writing.

(c) The commissioner shall file the written notice of cancellation with the other papers relating to the lease, and the lease shall terminate immediately.

Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1987, 70th Leg., ch. 948, Sec. 17, eff. Sept. 1, 1987.

Sec. 51.129. LIEN. (a) During the continuance of the lease and after forfeiture, the state has a lien on all property owned by the lessee which is located on the leased premises to secure payment of rent due.

(b) The lien is superior to all other liens.

(c) A reservation of the lien in the lease is not essential to preserve its validity.

Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.130. REMOVAL OF IMPROVEMENTS. An improvement made by a lessee on land leased by him may be removed by the lessee on the expiration of the lease or, at the discretion of the commissioner, may become the property of the state if, in the original lease, the commissioner and the lessee agree on adequate credit to be applied to the rental to be paid the state by the lessee, thereby allowing the lessee an agreed consideration.

Acts 1977, 65th Leg., p. 2427, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.131. SOIL AND WATER CONSERVATION PLANS. (a) For each lease issued under this subchapter for agricultural or grazing purposes, the commissioner may require the lessee to implement a soil and water conservation plan approved by the commissioner. The commissioner, in reviewing a plan, and the lessee, in implementing a plan, may be assisted by the United States Department of Natural Resources Conservation Service.

(b) The commissioner by rule shall adopt a procedure for reviewing and approving soil and water conservation plans required by Subsection (a) of this section.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 34, eff. Sept. 1, 1985. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 23, eff. June 18, 2003.

#### SUBCHAPTER E. SALE AND LEASE OF VACANCIES

Sec. 51.171. PURPOSE; APPLICATION OF OTHER LAW. (a) This subchapter controls the purchase and lease of vacant land and the authority of the commissioner and the board to:

- (1) determine whether a vacancy exists; and
- (2) sell and lease vacant land.

(b) To the extent a provision of this subchapter conflicts with another law relating to vacant land or Chapter 2001, Government Code, this subchapter controls.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.172. DEFINITIONS. In this subchapter:

(1) "Administratively complete" means a vacancy application that complies with Section 51.176 and any rule adopted by the commissioner regarding the filing of a vacancy application.

(1-a) "Applicant" means any person, including a good-faith claimant, who files a vacancy application.

(1-b) "Application commencement date" means:

(A) the date, as designated in the commissioner's notice to the applicant required by Section 51.177(b); or

(B) the date, as designated in the commissioner's notice to the applicant required by Section 51.177(d), indicating that any deficiency in the vacancy application has been resolved.

(2) "Good-faith claimant" means a person who, on the application commencement date:

(A) occupies or uses or has previously occupied or used, or whose predecessors in interest in the land claimed to be vacant have occupied or used, the land or any interest in the land for any purposes, including occupying or using:

(i) the surface or mineral estate for any purposes, including exploring for or removing oil, gas, sulphur, or other minerals and geothermal resources from the land;

(ii) an easement or right-of-way; or

(iii) a mineral royalty or leasehold interest;

(B) has had, or whose predecessors in interest have had, the land claimed to be vacant enclosed or within definite boundaries recognized in the community and in possession under a chain of title for a period of at least 10 years with a good-faith belief that the land was included within the boundaries of a survey or surveys that were previously titled, awarded, or sold under circumstances that would have vested title in the land if the land were actually located within the boundaries of the survey or surveys;

(C) is the owner of land:

(i) that adjoins the land claimed to be vacant; and

(ii) for which no vacancy application has been previously filed; or

(D) holds title under a person described by Paragraph (A), (B), or (C) or is entitled to a distributive share of

a title acquired under an application filed by a person described by Paragraph (A), (B), or (C).

(3) "Interest" means any right or title in or to real property, including a surface, subsurface, or mineral estate. "Interest" includes a right or title described as follows:

- (A) a fee simple title;
- (B) a determinable fee or other leasehold or mineral interest created under a conveyance instrument, including a mineral lease;
- (C) a mineral royalty, nonparticipating royalty, or overriding royalty interest described by Section 51.194(c);
- (D) a life estate;
- (E) a remainder or reversionary interest; or
- (F) a secured interest under a lien.

(4) "Necessary party" means:

- (A) an applicant or good-faith claimant whose present legal interest in the surface or mineral estate of the land claimed to be vacant may be adversely affected by a vacancy determination;
- (B) a person who asserts a right to or who claims an interest in land claimed to be vacant;
- (C) a person who asserts a right to or who claims an interest in land claimed to be vacant or in land adjoining land claimed to be vacant as shown in the records of the land office or the county records, including tax records, of any county in which all or part of the land claimed to be vacant is located;
- (D) a person whose name appears in the records described by Paragraph (C); or
- (E) an attorney ad litem appointed under Section 51.180.

(5) "Survey report" means a written report of a survey conducted by a licensed state land surveyor or a county surveyor of the county in which a majority of the land claimed to be vacant is located.

(6) "Vacancy" means an area of unsurveyed public school land that:

- (A) is not in conflict on the ground with land previously titled, awarded, or sold;
- (B) has not been listed on the records of the land office as public school land; and
- (C) was not, on the application commencement date:
  - (i) subject to an earlier subsisting application;
  - (ii) subject to a vacancy application denied with prejudice;
  - (iii) the subject of pending litigation relating to state ownership or possession of the land; or
  - (iv) subject to a previous vacancy application that has been finally adjudicated by the commissioner or a court of this state or the United States.

(7) "Vacancy application" means a form submitted to the commissioner by an applicant to:

- (A) initiate a determination by the commissioner whether land claimed to be vacant is vacant;
- (B) purchase vacant land; or
- (C) lease vacant land.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.173. DISPOSITION OF VACANT LAND. (a) Vacant and unsurveyed public school land shall be located, sold, and leased under this subchapter, except:

- (1) submerged lands within tidewater limits;
- (2) all islands, flats, and emergent lands within tidewater limits;
- (3) natural lakes; and
- (4) riverbeds, including channels and islands in riverbeds, above tidewater limits.

(b) This subchapter does not alter or diminish the public domain status of the surface estate of riverbeds and channels and islands in riverbeds that are located above tidewater limits.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.174. GENERAL POWERS AND DUTIES OF COMMISSIONER. (a) The commissioner may:

(1) delegate responsibility for implementing this subchapter;

(2) perform any other act necessary to administer and implement the purposes of this subchapter, including entering into a contract with a private party to provide the notices required under this subchapter; and

(3) terminate without prejudice a vacancy application if an applicant fails to comply with this subchapter or a rule adopted under this subchapter.

(b) The commissioner may grant an extension of time to comply with a requirement under this subchapter. For each application, the commissioner may grant not more than a total of 30 days in extensions of time to comply with one or more requirements of this subchapter, excluding any extensions of time related to the survey report under this subchapter. The commissioner may grant not more than 90 days in extensions of time to comply with a requirement related to the survey report under this subchapter.

(c) The commissioner shall adopt rules necessary and convenient to administer this subchapter.

(d) The commissioner shall advise the board relating to the market value of the surface, mineral, and leasehold estates of vacant land.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 280, Sec. 24, eff. June 18, 2003; Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.175. GENERAL POWERS AND DUTIES OF BOARD. (a) The board shall set the terms and conditions for each sale and lease of a vacancy.

(b) The board shall adopt rules governing the terms and conditions for the sale and lease of a vacancy. The rules shall be adopted and amended as necessary to be consistent with real property law of this state and other applicable law.

(c) The board may adopt rules governing mineral classification, royalty reservations, and awards of royalty reservations and preferential rights to an applicant or to a good-faith claimant in addition to the provisions prescribed by this subchapter.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 280, Sec. 25, eff. June 18, 2003; Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.176. VACANCY APPLICATION; FILING. (a) To purchase or lease land claimed to be vacant, a person must file a vacancy application on a form prescribed by the commissioner. A completed application must include:

(1) a description of the land claimed to be vacant that is sufficient to locate the land on the ground;

(2) a written statement indicating whether the applicant seeks to purchase the land claimed to be vacant or obtain a mineral lease on the land or both purchase the land and obtain a mineral lease on the land;

(3) a list, in a format prescribed by the commissioner, containing the name and last known mailing address of each necessary party whose name appears in the records described by Section 51.172(4)(C);

(4) an affidavit executed by the applicant affirming that the applicant conducted a diligent search of all the records described by Section 51.172(4)(C) in preparing the list required by Subdivision (3);

(5) if applicable, a statement of the basis for and documentary proof for an assertion of good-faith-claimant status;

(6) at the applicant's discretion:

(A) a survey report; or

(B) an abstract of title to any land that adjoins the land claimed to be vacant; and

(7) any other information required by the commissioner.

(b) The applicant must file the original and a duplicate copy of the vacancy application with the county clerk of each county in which all or part of the land claimed to be vacant is located.

(c) The county clerk shall mark the exact date and hour of filing on the original and a duplicate copy of the vacancy application and shall return a marked copy to the person filing the application. The original shall be recorded in a book kept for that purpose separate from the deed or real property records. The failure to record a vacancy application as provided by this

subsection does not affect the validity of the application filing.

(d) Not later than the fifth day after the date an applicant files the vacancy application with the county clerk, the applicant shall file a duplicate copy of the marked copy received from the county clerk with the county surveyor of each county in which all or part of the land claimed to be vacant is located if that county has a county surveyor.

(e) Priority among vacancy applications covering the same land claimed to be vacant is determined by the earliest time of filing indicated by the date and hour marked on the application by the county clerk.

(f) The applicant shall submit to the commissioner two duplicate copies of the marked copy that has been file-stamped by the county clerk not later than the 30th day after the date the vacancy application is filed with the county clerk. The commissioner shall mark the date the two duplicate copies are received on each copy, assign a file number to the vacancy application, and return a marked duplicate copy containing the file number to the applicant.

(g) The applicant shall include a filing fee set by the commissioner in an amount of not less than \$100. Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.177. PROCESSING VACANCY APPLICATION. (a) Not later than the 45th day after the date the applicant files the duplicate copies with the commissioner as provided by Section 51.176(f), the commissioner shall:

(1) determine whether the vacancy application is administratively complete; and

(2) provide to the applicant the notice required by this section.

(b) If the commissioner determines that the vacancy application is administratively complete, the commissioner shall provide written notice to the applicant that:

(1) informs the applicant that the application is administratively complete;

(2) states the application commencement date; and

(3) states the amount of any deposit required under Section 51.178 and the date by which the applicant must pay the deposit.

(c) If the commissioner determines that the vacancy application is not administratively complete, the commissioner shall provide written notice to the applicant that:

(1) informs the applicant that the application is not administratively complete;

(2) provides a list of any deficiencies the applicant must resolve; and

(3) states a reasonable period of not more than 30 days from the date of the notice to resolve any listed deficiencies.

(d) Not later than the 30th day after the date provided under Subsection (c)(3) to resolve any deficiencies, the commissioner shall determine whether the vacancy application is administratively complete. If the commissioner determines that the vacancy application is administratively complete, the commissioner shall provide the notice required by Subsection (b). If the commissioner determines that the vacancy application is not administratively complete, the commissioner shall:

(1) dismiss the application without prejudice; and

(2) provide written notice to the applicant informing the applicant that the application is not administratively complete and is dismissed without prejudice.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.178. DEPOSIT. (a) The commissioner may recover from the applicant state funds expended in evaluating and investigating the application, providing notice, preparing a survey, appointing an attorney ad litem, and conducting hearings under this subchapter.

(b) The commissioner shall require the applicant to submit a deposit in an amount sufficient to pay the reasonable costs under Subsection (a) not later than the 30th day after the application commencement date.

(c) If the amount deposited is insufficient, the commissioner shall require a reasonably necessary supplemental deposit. If a supplemental deposit is required, the applicant must



make the deposit not later than the 30th day after the date the commissioner requests the supplemental deposit.

(d) An applicant may not challenge or appeal the amount of the required deposits, and the applicant's refusal or failure to make the required deposits in the period prescribed by this section terminates the application without prejudice.  
Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Natural Resources Code Sec. 51.180 and amended by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.179. DISPOSITION OF DEPOSITS. (a) The commissioner shall deposit all initial and supplemental deposits received under this subchapter to the credit of a separate trust account in the state treasury. The comptroller, on the commissioner's order, shall make disbursements from that account for purposes authorized by this subchapter.

(b) After proceedings on a vacancy application are concluded and all expenditures authorized under this subchapter are paid, the commissioner shall provide to the applicant a complete statement of all deposits and expenditures and shall remit to the applicant any balance remaining from the deposit or supplemental deposits made by the applicant.  
Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Natural Resources Code Sec. 51.181 and amended by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.180. ATTORNEY AD LITEM. (a) The applicant must provide evidence to the commissioner to establish the applicant's ownership of all interests in the land surrounding the land claimed to be vacant.

(b) If the applicant fails to provide sufficient evidence, as determined by the commissioner, the commissioner shall, not later than the 30th day after the application commencement date, appoint an attorney ad litem to:

- (1) identify all necessary parties; and
- (2) represent the interests of any necessary party identified under Section 51.176(a)(3) that has not been located.

Amended by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.181. NOTICE TO NECESSARY PARTIES. (a) Not later than the 30th day after the application commencement date, the commissioner shall provide to each necessary party a written notice that:

- (1) informs the necessary party that a vacancy application has been filed;
- (2) states the application commencement date; and
- (3) includes:
  - (A) a copy of the vacancy application and any attachments; and
  - (B) a form for requesting subsequent notices regarding the application.

(b) If the attorney ad litem is unable to identify each necessary party, the applicant shall provide notice required under this section by publication in the same manner prescribed by the Texas Rules of Civil Procedure.

(c) Except as provided by Subsection (d), a necessary party is not entitled to notices subsequent to the notice provided under Subsection (a) unless the party requests subsequent notices.

(d) The commissioner shall notify each necessary party of a final order issued under Section 51.188.  
Amended by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.182. FILING OF EXCEPTIONS TO APPLICATION. (a) Not later than the 60th day after the date of the commissioner's notice under Section 51.181(a), a necessary party may file an exception to the vacancy application, any documentation attached to the application, or any other documents or public records that may be used by the commissioner to make a determination.

(b) A necessary party must:

- (1) file an exception with the land office; and
- (2) provide a copy of the filing to each necessary party that requested subsequent notice as provided by Section 51.181.

Amended by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.183. INVESTIGATION. (a) The commissioner shall conduct an investigation of the vacancy application.

(b) The investigation shall include:

- (1) an evaluation of the vacancy application;
- (2) a determination that the vacancy application was filed as provided by Section 51.176; and
- (3) a review of public records at the land office relating to the land claimed to be vacant.

(c) The investigation may include a review of:

(1) any survey conducted by a licensed state land surveyor or by the county surveyor of a county in which all or part of the land claimed to be vacant is located; or

(2) any documents or public records necessary to determine whether a vacancy exists, including a review of public records relating to the land claimed to be vacant at:

(A) the state archives; or

(B) any county in which all or part of the land claimed to be vacant is located.

(d) An investigation may include a survey requested by the commissioner under Section 51.184 or a surveyor's report as provided by Section 51.185.

(e) The commissioner shall record the names of the persons consulted, the documents and surveys reviewed, and the relevant law and other materials used in the investigation.

Amended by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.184. COMMISSIONER'S SURVEY. (a) To investigate a vacancy application under Section 51.183, the commissioner may require a survey. If the commissioner requires a survey, the commissioner shall appoint a licensed state land surveyor who is not associated with the vacancy application to prepare a report as provided by Section 51.185. The commissioner may limit the scope of the work performed by the surveyor.

(b) A necessary party may observe a survey conducted under this section. A survey will not be delayed to accommodate a necessary party who provides notice to the commissioner that the party intends to observe the surveyor conducting the survey.

(c) The commissioner shall mail a notice of intention to survey to each necessary party not later than the 30th day before the date the surveyor begins work. The notice must contain:

(1) the proposed starting date of the survey;

(2) the name, address, and telephone number of the surveyor; and

(3) a statement informing the necessary party that any necessary party may observe the field work of the surveyor conducting the survey.

(d) The fees and expenses paid for the survey are the same as those provided by law. If the fees and expenses are not provided by law, the commissioner shall contract for fees and expenses reasonably necessary for the scope of the required work. Contracts under this subsection:

(1) must include hourly rates, categories of reimbursable expenses, and an estimated completion date; and

(2) may include other expenses the commissioner considers reasonable.

(e) The commissioner shall adopt rules regarding the removal of an appointed surveyor on the grounds of bias, prejudice, or conflict. The rules must permit the commissioner to remove an appointed surveyor on the commissioner's own motion or on the motion of a necessary party.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Natural Resources Code Sec. 51.182 and amended by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.185. SURVEYOR'S REPORT. (a) Not later than the 120th day after the date a surveyor is appointed under Section 51.184, the surveyor shall file a written report of the survey, the field notes describing the land and the lines and corners surveyed, a plat depicting the results of the survey, and any other information required by the commissioner. The commissioner may extend the time for filing the report as reasonably necessary.

(b) The survey report must also contain:

(1) the name and last known mailing address of:

(A) each person who has possession of the land described in the vacancy application; and

(B) each person determined by the surveyor to have an interest in the land; and

(2) all abstract numbers associated with surveys of land adjoining the land claimed to be vacant.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Natural Resources Code Sec. 51.183 and amended by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.186. COMPLETION OF SURVEY. (a) The commissioner shall serve a true copy of the survey report filed by the surveyor on each necessary party, including those named in the survey report, by certified mail, return receipt requested, not later than the 30th business day after the date the survey report is filed with the land office.

(b) Any necessary party may file exceptions to the surveyor's report not later than the 30th day after the date the survey report is mailed to the necessary party by the commissioner. Any exceptions must be filed with the land office and a copy must be sent by the party filing the exception to each necessary party who has requested subsequent notice under Section 51.181.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Natural Resources Code Sec. 51.184 and amended by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.187. HEARING. (a) If the commissioner has not issued a final order with a finding of "Not Vacant Land" on or before the first anniversary of the application commencement date, the commissioner shall order a hearing to determine if a vacancy exists. A hearing under this subchapter:

(1) shall be held not later than the 60th day after the date the hearing is ordered;

(2) shall be conducted as a contested case hearing subject to Chapter 2001, Government Code; and

(3) may be waived by written agreement of all necessary parties and the commissioner.

(b) Not later than the 30th day after the date a hearing is ordered under Subsection (a), the commissioner shall provide notice of the hearing date to each necessary party.

(c) Not later than the 60th day after the date of the hearing, the commissioner shall enter a final order as provided by Section 51.188.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Natural Resources Code Sec. 51.185 and amended by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.188. COMMISSIONER'S FINAL ORDER. (a) At any time during or after an investigation of or hearing regarding a vacancy application, the commissioner may determine that land claimed to be vacant is not vacant and issue a final order with a finding of "Not Vacant Land."

(b) After a hearing conducted under Section 51.187, the commissioner shall issue a final order with a finding of "Not Vacant Land" or issue an order finding a vacancy exists. Not later than the 15th day after the date the final order is issued, the commissioner shall notify each necessary party of the final order by providing each party a copy of the final order.

(c) A final order finding a vacancy exists must contain:

(1) a finding by the commissioner that the land claimed to be vacant is unsurveyed public school land that is not in conflict with land previously titled, awarded, or sold by the state as established by:

(A) clear and convincing proof for an application to which an exception has been filed as provided by Section 51.182; or

(B) a preponderance of the evidence for an application to which no exceptions have been filed as provided by Section 51.182;

(2) the field note description used to determine the vacancy, which must be sufficient to locate the land on the ground;

(3) an accurate plat of the land that is:

(A) consistent with the field notes; and

(B) prepared by a licensed state land surveyor or a county surveyor of the county in which a majority of vacant land is located; and

(4) any other matters required by law or as the

commissioner considers appropriate.

(d) In determining the boundaries and size of a vacancy, the commissioner is not restricted to a description of the land claimed to be vacant that is provided by the applicant, the surveyor, or any other person. The commissioner shall adopt the description of a vacancy that best describes the land found to be vacant and that is consistent with the investigation under this subchapter.

(e) The commissioner shall attach to the commissioner's final order a document entitled "Notice of Claim of Vacancy." The commissioner shall prescribe the contents of the notice. The commissioner shall file the notice with the county clerk and any county surveyor of each county in which all or part of the vacancy is located.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Natural Resources Code Sec. 51.186 and amended by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.189. APPEAL. (a) A final order with a finding of "Not Vacant Land" under Section 51.188 may not be appealed. The final order is conclusive regarding the land described in the vacancy application or the land investigated by the commissioner as a result of the vacancy application.

(b) A final order finding a vacancy exists is subject to appeal by a necessary party that has standing to appeal under Section 51.192. The district court in the county in which a majority of the vacant land is located has jurisdiction of an appeal under this subchapter. A necessary party must file an appeal not later than the 30th day after the date the commissioner's final order is issued. All necessary parties must be provided notice of an appeal under this section by the party filing the appeal.

(c) A person whose predecessor in title was bound by the outcome of an appeal is bound to the same extent the predecessor in title would be bound if the predecessor in title continued to hold title.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Natural Resources Code Sec. 51.187 and amended by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.190. SCOPE OF REVIEW. In an appeal of the commissioner's final order determining that a vacancy exists, the district court shall conduct a trial de novo.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Natural Resources Code Sec. 51.188 and amended by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.191. ISSUES REVIEWABLE. The court may review the commissioner's declaration of good-faith-claimant status only in conjunction with a review of a final order determining that a vacancy exists.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Natural Resources Code Sec. 51.189 by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.192. STANDING TO APPEAL. A person may appeal the commissioner's final order determining that a vacancy exists if the person:

- (1) is a necessary party;
- (2) has a present legal interest in the surface or mineral estate at the time a vacancy application is filed; or
- (3) acquires a legal interest before the date of the commissioner's final order.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Natural Resources Code Sec. 51.190 by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.193. APPLICATION FOR AND DETERMINATION OF GOOD-FAITH-CLAIMANT STATUS. (a) A necessary party may apply for good-faith-claimant status not later than the 90th day after the date the commissioner issues a final order finding that a vacancy exists.

(b) The application must include certified copies of the applicable county records supporting the good-faith claimant's status.

(c) Not later than the 120th day after the date the commissioner issues a final order finding that a vacancy exists, the commissioner shall declare whether a necessary party is a good-faith claimant.

(d) A person who is denied good-faith-claimant status may:  
    (1) request a hearing by the commissioner; or  
    (2) appeal the denial as part of any appeal of a final order finding that a vacancy exists.

(e) If the commissioner grants a hearing, the commissioner shall:

    (1) determine the scope of the hearing;  
    (2) provide timely notice of the time and place of the hearing to each necessary party; and  
    (3) provide each necessary party an opportunity to be heard.

(f) A declaration of good-faith-claimant status grants a preferential right to the claimant to purchase or lease the land or an interest in the land as provided by Section 51.194. The declaration does not confer any other rights.

Added by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.194. PREFERENTIAL RIGHT OF GOOD-FAITH CLAIMANT. (a) A good-faith claimant who has been notified by the commissioner that a vacancy exists under this subchapter has a preferential right to purchase or lease the interest claimed in the land before the land was declared vacant. The preferential right may be exercised after a final judicial determination or after the commissioner's final order and the period for filing an appeal has expired. If a good-faith claimant does not apply to purchase or lease the interest before the later of the 121st day after the date the commissioner's order becomes final or the 60th day after the date of the final judicial determination of an appeal under this subchapter, then the good-faith claimant's preferential right expires.

(b) A good-faith claimant may purchase or lease the vacancy by submitting a written application to the board.

(c) A good-faith claimant that owns a separate surface interest, a contractual right to a mineral or leasehold interest, a leasehold interest, or a royalty interest in the land occupied or used that is found to be part of or to include a vacancy is entitled to purchase or lease that same interest in the portion of the land determined to be vacant at the price and under the conditions set by the board and in accordance with the law in effect on the date the application is filed.

(d) If the interest purchased under Subsection (c) is less than a permanent interest, then:

    (1) the interest purchased is limited to the duration of a deed, contract, instrument, or lease in existence before the filing of the vacancy application and subject to a division of the amount of the royalty between the state and the existing royalty owners, provided that the state retains at least one-half of the amount of the royalty interest; and

    (2) the interest and any remaining mineral interest, including all executory rights, vest with the state at the expiration of the deed, contract, instrument, or lease.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Natural Resources Code Sec. 51.191 by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

Sec. 51.195. PURCHASE OR LEASE BY APPLICANT. (a) If no good-faith claimant exists or if no good-faith claimant exercises a preferential right within the applicable period, the applicant has a preferential right to purchase or lease the land determined to be vacant on or before the 60th day after the date:

    (1) the commissioner determines that no good-faith claimant exists; or

    (2) the period for a good-faith claimant to exercise a preferential right to purchase or lease the land determined to be vacant expires.

(b) If a good-faith claimant exercises the claimant's preferential right in the land determined to be vacant, the applicant has a preferential right to either:

    (1) an award by the board of a perpetual 1/32 nonparticipating royalty of the full mineral interest of the vacancy; or

    (2) a preferential right to purchase or lease any remaining interest in the land determined to be vacant.

(c) If a lease described by Section 51.194(d)(1) exists on the land determined to be vacant, the applicant's 1/32 nonparticipating royalty interest, as described by Subsection (b)(1), shall be taken from the state's royalty interest as

reserved under Section 51.194(d)(1) for the duration of the lease, provided that the applicant's share for the duration of the lease may never equal more than the interest retained by the state.

(d) An applicant who exercises a preferential right under Subsection (a) or (b)(2) may purchase or lease the land or an interest in the land:

- (1) at the price set by the board;
- (2) subject to the royalty reservations provided by the board; and
- (3) in accordance with the law in effect on the date the application is filed.

Amended by Acts 2001, 77th Leg., ch. 1418, Sec. 1, eff. Sept. 1, 2001. Renumbered from V.T.C.A., Natural Resources Code Sec. 51.192 by Acts 2005, 79th Leg., ch. 874, Sec. 1, eff. June 17, 2005.

#### SUBCHAPTER F. PATENTS

Sec. 51.241. ISSUANCE OF PATENT. The commissioner shall issue a patent when the records of his office reflect that full payment for land has been made where required and fees that are due on the land have been paid to the land office and have not been withdrawn, including the fee for recording the patent in the county or counties in which the land is located.

Acts 1977, 65th Leg., p. 2435, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.242. PATENT FEES. When a person applies for a patent, he shall pay to the land office in addition to all other required payments a fee set by the commissioner in an amount not less than \$1 for each county in which all or a part of the land is located and shall give the name and address of the owner or agent.

Acts 1977, 65th Leg., p. 2435, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1983, 68th Leg., p. 404, ch. 81, Sec. 21(h), eff. Sept. 1, 1983.

Sec. 51.243. REQUISITES OF A PATENT. (a) Each patent for land from the state shall be issued in the name and by authority of the state under the state seal and the land office seal and shall be signed by the governor and countersigned by the commissioner.

(b) Before the patent is delivered to the person who is entitled to it, it shall be registered in the land office patent book.

Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1993, 73rd Leg., ch. 300, Sec. 35, eff. Aug. 30, 1993.

Sec. 51.244. DELIVERY OF PATENT. (a) When a patent is ready for delivery, the commissioner shall send it, together with the check for payment of the fee required by Section 51.242 of this code and the name and address of the owner or his agent, by certified mail to the clerk of the proper county.

(b) On receiving the patent, the clerk shall record it and shall send the patent, together with the name and address of the owner or his agent and the remaining recording fees, by certified mail to the clerk of another proper county until the patent has been recorded in each county in which all or part of the land is located.

(c) After the patent is recorded in all the proper counties, it shall be sent by certified mail to the proper party.

Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1995, 74th Leg., ch. 354, Sec. 2, eff. Aug. 28, 1995.

Sec. 51.245. DECEASED PATENTEE. A patent issued in the name of a person who is deceased at the time the patent is issued conveys and secures valid title to the heirs or assignee of the deceased person.

Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.246. ACQUISITION OF DEED OF ACQUITTANCE TO EXCESS ACREAGE. (a) If the area of a tract of land that is titled or patented exceeds the quantity provided in the title or patent and if under the existing law the title to all or a part of the tract may be affected by the existence of the excess acreage, the person who owns the survey or portion of the survey or has an interest in it may pay for the total excess acreage in the survey or the total excess in a given tract out of the patented or titled survey at the price fixed by the board.

(b) Any person who owns an interest in a titled or patented survey or any portion of a titled or patented survey in which excess acreage is located and who desires to pay for the excess acreage shall file with the commissioner a request for a determination of

market value by an appraiser with corrected field notes in the form provided by law, together with a sworn statement of facts relating to his right to purchase and other evidence of his right to purchase which may be required by the commissioner. The corrected field notes shall describe the patented tract, and if purchasing excess in a portion of a tract, shall include a description of the portion in which the applicant is making application to purchase excess.

(c) If it appears that excess acreage actually exists and that the applicant is entitled to obtain it under the law, the commissioner shall execute a deed of acquittance covering the land in the name of the original patentee or his assignees with a mineral reservation or with no mineral reservation accordingly as may have been the case when the survey was titled or patented.

(d) The transfer shall inure distributively to the benefit of the lawful owners of the land in proportion to their holdings. Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 26, eff. June 18, 2003.

Sec. 51.247. PATENTS FOR LAND THAT CANNOT BE PATENTED BY OTHER METHODS. (a) Any headright survey, homestead donation, preemption survey, scrip survey, or other survey awarded or sold before August 20, 1931, which has been held and claimed in good faith by a person for 10 years before the date of application for a patent but which cannot be patented under existing law may be patented on payment to the commissioner of the purchase price as set by the board.

(b) The patent shall be issued to the owner of record as shown in the records of the land office and shall inure distributively to the legal owners of the land.

(c) If a tract of school land has been occupied by mistake as part of another tract, the occupant shall have a preference right for a period of six months after discovery of the mistake to purchase the land at the same price paid or contracted to be paid for the land actually conveyed to him.

Acts 1977, 65th Leg., p. 2436, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.248. DOUBTFUL CLAIM. If it appears to the commissioner from the records of his office or from information given to him under oath that there is an illegality in a claim, the commissioner, if he considers it necessary, shall refer the matter to the attorney general, and the attorney general's written decision is sufficient authority for the commissioner to issue or withhold the patent.

Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.249. CONFLICTING SURVEYS. If conflicts exist between surveys, the commissioner shall issue patents to the portions of the surveys that are free from conflict.

Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.250. CONFLICTING TITLE. (a) If a patent to land is issued by mistake on any valid claim for land and is afterwards found to be in conflict with an older title, the owner of the patent or any part of the land embraced by the patent which is in conflict may return the patent to the commissioner for cancellation. If the owner of the land that is the subject of the conflict cannot obtain the patent, he shall return to the commissioner legal evidence of his title to the patent or part of the patent.

(b) The person returning the patent or filing the evidence also shall make and file with the commissioner an affidavit stating that he is still the owner of the land and has not sold or transferred it.

(c) If the land office records or a duly certified copy of a judgment of a court of competent jurisdiction that has adjudicated the title reflects that a conflict exists, the commissioner may cancel the patent or the part of a patent that appears to belong to the party making the application.

(d) In cases where a survey in a block or system of surveys conflicts on one side or more, and omits an unpatented strip on another side or sides due to the patent being issued on an erroneous subsequent survey not conforming to the original and recognized pattern for the block or system, the commissioner, at the request of all parties owning under said patent, may cancel said patent and issue a corrected patent that shall conform to said block or system of surveys. In the event that excess acreage exists, a deed of

acquittance shall be procured, as provided by law, and will be issued simultaneously with the corrected patent. This Subsection (d) shall not adversely affect the rights of any party in or entitled to possession of land affected by this subsection, but merely clarifies that the ownership in any land in a block or system of surveys exists as if the patent had been correctly issued on the date the erroneous patent was issued. The rights of a claimant under applicable law shall be construed as if the corrected patent had been originally issued.

Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1981, 67th Leg., p. 2239, ch. 535, Sec. 1, eff. Aug. 31, 1981.

Sec. 51.251. PARTIAL CONFLICT OF TITLE. If there is only a partial conflict of title under a patent, the commissioner in the manner provided in Section 51.250 of this code may cancel any patent presented to him and issue a patent to the applicant for the portion of the land that is covered by his original patent but that is not in conflict with the older title if the area can be determined from the field notes.

Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.252. REFUND OF PURCHASE MONEY. (a) If a patent cannot be issued for land because of a conflict, erroneous survey, or illegal sale or if a patent is issued for land and is later canceled, the comptroller, on proper proof, may issue his warrant to the proper parties for amounts paid in good faith to the State Treasury for taxes, lease payments, or purchase payments on this land.

(b) Proof of these good-faith payments may be shown by the certificate of the commissioner if the records of the land office show that a patent cannot be issued because of conflict, erroneous survey, or illegal sale or that a patent has been canceled.

(c) The provisions of this section do not apply to surveys on which the errors may be corrected.

Acts 1977, 65th Leg., p. 2437, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.253. CORRECTED PATENT. (a) An owner of land in one or more patented surveys may apply to the General Land Office for a corrected patent to correct scriveners' errors or obvious errors in the field note description of the original patent as determined by the commissioner. The application must clearly identify the error in the original patent.

(b) The General Land Office may adopt rules relating to the implementation and operation of this section, including rules requiring the payment of reasonable filing and processing fees by an applicant for a corrected patent.

Added by Acts 1983, 68th Leg., p. 752, ch. 182, Sec. 1, eff. Sept. 1, 1983.

#### SUBCHAPTER G. EASEMENTS

Sec. 51.291. GRANTS OF EASEMENTS. (a) Except as provided by Subsection (b) of this section, the commissioner may execute grants of easements for rights-of-way across, through, and under unsold public school land, the portion of the Gulf of Mexico within the jurisdiction of the state, the state-owned riverbeds and beds of navigable streams in the public domain, and all islands, saltwater lakes, bays, inlets, marshes, and reefs owned by the state within tidewater limits for:

(1) telephone, telegraph, electric transmission, and powerlines;

(2) oil pipelines, including pipelines connecting the onshore storage facilities with the offshore facilities of a deepwater port, as defined by the federal Deepwater Port Act of 1974 (33 U.S.C.A. Section 1501 et seq.), gas pipelines, sulphur pipelines, and other electric lines and pipelines of any nature;

(3) irrigation canals, laterals, and water pipelines;

(4) roads; and

(5) any other purpose the commissioner considers to be in the best interest of the state.

(b) Consent to conduct an activity that would disturb or remove marl, sand, gravel, shell, or mudshell on or near the surface of a state-owned riverbed or the bed of a navigable stream in the public domain may be granted only under Chapter 86, Parks and Wildlife Code.

(c) Money received by the land office for the grants of easements through and under the state-owned riverbeds and beds of



navigable streams in the public domain shall be deposited in a special fund account in the state treasury to be used for the removal or improvement of unauthorized structures on permanent school fund land. This fund does not impose a duty or obligation on the state to accept ownership of, remove, or improve unauthorized structures on permanent school fund land.

Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 624, Sec. 35, eff. Sept. 1, 1985; Acts 1993, 73rd Leg., ch. 991, Sec. 15, eff. Sept. 1, 1993.

Sec. 51.292. EASEMENTS AND LEASES FOR CERTAIN FACILITIES. The commissioner may execute grants of easements or leases for electric substations, pumping stations, loading racks, and tank farms to be located on state land other than land owned by The University of Texas System.

Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.293. EASEMENTS ON UNIVERSITY LAND. (a) The Board of Regents of The University of Texas System may continue to execute all right-of-way easements under authority already granted across land that belongs to the state but is dedicated to the support and maintenance of The University of Texas System for telephone, telegraph, electric transmission, and powerlines, for oil pipelines, gas pipelines, sulphur pipelines, and other electric lines and pipelines of any nature, and for irrigation canals, laterals, and water pipelines.

(b) The board of regents may continue to execute under authority already granted grants of easements or leases for the erection and maintenance of electric substations, pumping stations, loading racks, and tank farms on university land.

(c) In addition to the purposes for which grants of easements may be executed under Subsections (a) and (b) of this section, the board of regents may execute grants of easements on university land for any other purpose it considers to be in the best interest of the permanent university fund land.

Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 624, Sec. 36, eff. Sept. 1, 1985.

Sec. 51.294. FORMS FOR GRANT. Easements granted under Sections 51.291 through 51.293 of this code shall be granted on forms approved by the attorney general.

Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.295. CONDITIONS FOR EASEMENT. Telephone, telegraph, electric transmission, powerline, and pipeline right-of-way easements and easements or rights-of-way for irrigation canals, laterals, and water pipelines shall be executed on terms to be determined by the commissioner or the board of regents, but no easement for an oil, gas, or sulphur pipeline or a telephone, telegraph, electric transmission, or powerline easement may be granted that does not provide for the annual privilege fee of not less than two and one-half cents a lineal rod a year.

Acts 1977, 65th Leg., p. 2438, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.296. TERM OF EASEMENTS. (a) Except as provided in Subsection (b) of this section, no grant of easement or lease enumerated under Section 51.293 of this code may be granted for a term that is longer than 10 years, but an easement or lease may be renewed by the board of regents of The University of Texas System. The term for easements or leases granted under Sections 51.291 and 51.292 of this subchapter may be for any term the commissioner deems to be in the best interest of the state.

(b) The commissioner by rule shall set the amount of and shall collect money for damages to the surface of land dedicated to the permanent school fund.

(c) Money collected for surface damages shall be deposited in the special fund account described in Section 52.297 of this code.

(d) A right-of-way easement for a pipeline connecting onshore storage facilities with the offshore facilities of a deepwater port, as defined by the Deepwater Port Act of 1974 (33 U.S.C.A. Section 1501 et seq.), may be granted for a term coincident with the term of the license issued by the secretary of transportation pursuant to the Deepwater Port Act of 1974 (33 U.S.C.A. Section 1501 et seq.), and the easement may be renewed for additional terms of up to 10 years coincident with the term for each

renewal of the license.

Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 624, Sec. 37, eff. Sept. 1, 1985; Acts 1987, 70th Leg., ch. 208, Sec. 7, eff. Aug. 31, 1987.

Sec. 51.297. RECORDING EASEMENTS. (a) Each easement granted under Sections 51.291 through 51.293 of this code shall be recorded in the county clerk's office of the county in which the land is located, and the recording fee shall be paid by the person who obtains the easement.

(b) The person who obtains an easement under Sections 51.291 and 51.292 of this code shall furnish to the commissioner a certified copy of the easement. The person who obtains an easement under Section 51.293 of this code shall furnish to the board of regents of The University of Texas System a certified copy of the easement.

Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 923, Sec. 12, eff. Aug. 26, 1985; Acts 1987, 70th Leg., ch. 208, Sec. 12, eff. Aug. 31, 1987.

Sec. 51.298. ANNUAL PRIVILEGE FEE. (a) A person who occupies or uses any unsold public school land, any islands, saltwater lakes, bays, inlets, marshes, or reefs owned by the state within tidewater limits, any portion of the Gulf of Mexico within the jurisdiction of the state, or any unsold public land dedicated to The University of Texas System as a right-of-way for a telephone, telegraph, electric transmission, or powerline, for an oil pipeline, gas pipeline, or sulphur pipeline, or for an irrigation canal, lateral, or water pipeline shall pay annually in advance to the commissioner an amount equal to two and one-half cents a lineal rod a year for each rod of telephone, telegraph, electric transmission, or powerline, or each rod of oil or gas pipeline.

(b) The annual privilege fee shall be paid by those persons who have not previously paid this fee on all oil pipelines, gas pipelines, and telephone, telegraph, electric transmission, and powerlines that are in existence and located on public land mentioned in Subsection (a) of this section.

(c) The fee shall be paid annually unless the grant of the easement makes some other provision.

(d) A higher annual privilege fee may be set by contract between the authorized officials and the grantee of the easement.

Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.299. FEES FOR CERTAIN FACILITIES. The rent to be charged for an easement or lease for an electric substation site, pumping station, loading rack, tank farm, or road or for an easement for a purpose not specifically listed by Section 51.291, 51.292, or 51.293 of this code but granted in the best interest of the state or the permanent university fund land shall be an amount agreed to between the lessee and the board of regents with respect to university land and the commissioner with respect to other state land.

Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 624, Sec. 38, eff. Sept. 1, 1985.

Sec. 51.2995. WAIVER OR REDUCTION OF EASEMENT FEES IN CERTAIN CIRCUMSTANCES. The commissioner may waive or reduce an easement fee if the easement granted is to improve the infrastructure of the land, including production and transportation of alternative or renewable energy resources.

Added by Acts 2003, 78th Leg., ch. 280, Sec. 27, eff. June 18, 2003.

Sec. 51.300. DISPOSITION OF INCOME. Income received by the commissioner under this subchapter from public school land shall be credited to the permanent school fund, and income received from university land shall be credited to the available university fund. Other income received by the commissioner on other land under this subchapter shall be credited to the General Revenue Fund.

Acts 1977, 65th Leg., p. 2439, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 328, Sec. 5, eff. Jan. 1, 2004.

Sec. 51.301. INTEREST ON PAST-DUE PAYMENTS. (a) Payments under this subchapter that are past due shall bear interest at a rate of 10 percent a year.

(b) If no date for payment is provided in the contract or if no written contract has been executed, the unpaid annual fees shall bear interest at a rate of 10 percent calculated from January 1

following the year for which the annual privilege fee was due. Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.302. PROHIBITION AND PENALTY. (a) No person may construct or maintain any structure or facility on land owned by the state, nor may any person who has not acquired a proper easement, lease, permit, or other instrument from the state as required by this chapter or Chapter 33 of this code and who owns or possesses a facility or structure that is now located on or across state land continue in possession of the land unless he obtains from the commissioner, the board, or the board of regents an easement, lease, permit, or other instrument required by this chapter or Chapter 33 of this code for the land on which the facility or structure is to be constructed or is located.

(b) A person who constructs, maintains, owns, or possesses a facility or structure on state land without a proper easement or lease from the state under this chapter or under Chapter 33 of this code is liable for a penalty of not less than \$50 or more than \$1,000 a day for each day that a violation occurs. The penalty shall be recovered by the commissioner under Section 51.3021 of this code or in a civil action by the attorney general.

(c) A person who owns, maintains, or possesses an unauthorized facility or structure is, for purposes of this section, the person who last owned, maintained, or possessed the facility or structure.

(d) The commissioner or attorney general may also recover from a person who constructs, maintains, owns, or possesses a facility or structure on state land without the proper easement the costs to the state of removing that facility or structure under Section 51.3021 of this code.

(e) Penalties and costs recovered under this section shall be deposited in the special fund established under Sections 52.297 and 53.155 of this code.

(f) This section is cumulative of all other applicable penalties or enforcement provisions of this code.

(g) In lieu of seeking administrative penalties or removal of the facility or structure under Section 51.3021 of this code, the commissioner may elect to accept ownership of the facility or structure as a fixture and may exercise the state's rights as owner of the facility or structure by filing notice of such ownership in the real property records of the county in which the facility or structure is located. For facilities or structures located on coastal public land and connected with the ownership of adjacent littoral property, notice of ownership shall be filed in the county in which the adjacent littoral property is located.

Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1985, 69th Leg., ch. 624, Sec. 39, eff. Sept. 1, 1985; Acts 1991, 72nd Leg., ch. 465, Sec. 1, eff. June 11, 1991; Acts 1993, 73rd Leg., ch. 991, Sec. 16, eff. Sept. 1, 1993; Acts 2003, 78th Leg., ch. 280, Sec. 28, eff. June 18, 2003.

Sec. 51.3021. REMOVAL OF FACILITY OR STRUCTURE BY COMMISSIONER. (a) The commissioner may remove and dispose of a facility or structure on land owned by the state if the commissioner finds the facility or structure to be:

(1) without the proper easement or lease from the state under Chapter 33 or 51 of this code; or

(2) an imminent and unreasonable threat to public health, safety, or welfare.

(b) Before the commissioner may remove a facility or structure under this section or impose a penalty under Section 51.302 of this code, the commissioner must give written notice to a person who is constructing, maintains, owns, or possesses the facility or structure. The notice must state:

(1) the specific facility or structure that is without proper easement or lease or that threatens public health, safety, or welfare;

(2) that the person who is constructing, maintains, owns, or possesses the facility or structure shall remove the facility or structure:

(A) not later than the 30th day after the date on which the notice is served, if the facility or structure is on state land without a proper lease or easement; or

(B) within a reasonable time specified by the commissioner if the facility or structure is an imminent and unreasonable threat to public health, safety, or welfare;

(3) that failure to remove the facility or structure may result in liability for a penalty under Section 51.302(b) of this code in an amount specified, removal by the commissioner and liability for the costs of removal, attachment of a lien to the adjacent littoral property to secure payment of the penalty and costs of removal, or any combination of such remedies; and

(4) that the person who is constructing, maintains, owns, or possesses the facility or structure may submit, not later than the 30th day after the date on which the notice is served, written request for a hearing.

(c) The notice required by Subsection (b) of this section must be given:

(1) by service in person or by registered or certified mail, return receipt requested; or

(2) if personal service cannot be obtained or the address of the person responsible is unknown, by posting a copy of the notice on the facility or structure and by publishing notice in a newspaper with general circulation in the county in which the facility or structure is located two times within 10 consecutive days.

(d) The commissioner by rule shall adopt procedures for a hearing under this section.

(e) The commissioner must grant a hearing if a hearing is requested. A person who does not timely request a hearing waives all rights to judicial review of the commissioner's findings or orders and shall immediately remove the facility or structure and pay any penalty assessed. If a hearing is held, the commissioner shall issue a final order concerning removal of the facility or structure and payment of a penalty.

(f) The trial courts of this state shall give preference to an appeal from a final order of the commissioner under this section as provided by Section 23.101(a), Government Code.

(g) The commissioner may contract for the removal and disposal of a facility or structure under this section and may pay the costs of removal from the special fund established under Sections 52.297 and 53.155 of this code or from funds appropriated by the legislature.

(h) If the person who is constructing, maintains, owns, or possesses the facility or structure does not pay assessed penalties, removal costs, and other assessed fees and expenses not later than the 60th day after the entry of a final order assessing the penalties, costs, and expenses, the commissioner may:

(1) sell salvageable parts or attachments of the facility or structure to offset those costs;

(2) record a lien, in the total amount of the penalties, costs, and other fees and expenses assessed, against the adjacent littoral property;

(3) request the attorney general to institute civil proceedings to collect the penalties, costs of removal, and other fees and expenses remaining unpaid; or

(4) use any combination of the remedies prescribed by this subsection, or other remedies authorized by law, to collect the unpaid penalties, costs of removal, and other fees and expenses assessed on account of the unauthorized facility or structure on state land and its removal by the commissioner.

(i) The lien authorized by this section arises and attaches at the time a notice of lien is recorded and indexed in the real property records in the county where the adjacent littoral property is located. The notice of lien must contain a legal description of the adjacent littoral property, the name of the owner of the adjacent littoral property, if known, and the total amount of the penalties, costs, and other fees. The lien is subordinate to the rights of prior bona fide purchasers or lienholders on the adjacent littoral property.

(j) The decision to remove a facility or structure under this section is discretionary with the commissioner. This section does not impose a duty on the state to remove a facility or structure or to remedy or warn of a hazardous condition on state land.

(k) A wrecked, derelict, or substantially dismantled vessel that is moored or left in place for at least 21 days without the consent of the commissioner is considered a structure for purposes of this section.

Added by Acts 1991, 72nd Leg., ch. 465, Sec. 2, eff. June 11, 1991.  
Amended by Acts 1993, 73rd Leg., ch. 991, Sec. 17, eff. Sept. 1,

1993; Acts 2005, 79th Leg., ch. 216, Sec. 5, eff. Sept. 1, 2005.

Sec. 51.303. VENUE. The venue for suits by or against the state under Sections 51.291 through 51.3021 of this code or for violation of provisions of Sections 51.291 through 51.302 of this code shall be in Travis County.

Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 1991, 72nd Leg., ch. 465, Sec. 3, eff. June 11, 1991.

Sec. 51.304. EASEMENTS FOR SOIL CONSERVATION AND FLOOD PREVENTION. The commissioner may execute grants of easements on unsold public school land to conservation and reclamation districts for soil conservation and flood prevention projects authorized by the Watershed Protection and Flood Prevention Act (16 U.S.C. Section 1001 et seq.), as amended.

Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.305. TERMS AND FORM OF GRANT. The grant of the easement may contain any provisions that the commissioner considers necessary to protect the interests of the state and may be perpetual or for a term of years.

Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.306. CONSIDERATION. The consideration paid to the state for the grant of the easement under Section 51.304 of this code shall be determined by the commissioner to compensate the state for any damage to the land or to the use of the land caused by the easement, but if the commissioner determines that the benefits resulting from the grant of the easement are more than the damage, the commissioner may waive the consideration for the easement.

Acts 1977, 65th Leg., p. 2440, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.307. RESERVATION OF MINERAL RIGHTS. Mineral rights together with the right to explore for, produce, and market the minerals in land granted as an easement under Section 51.304 of this code shall be reserved to the state and shall be subject to lease for minerals in the same manner as other unsold public school land.

Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

#### SUBCHAPTER H. SALE OF TIMBER, GAYULE, AND LECHUGUILLA

Sec. 51.341. DEFINITION. In this subchapter, "timbered land" means land that is valued chiefly for the timber located on it.

Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.342. SALE OR LEASE OF TIMBER. Timber located on public land shall be sold or leased in full tracts for cash at its market value.

Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 29, eff. June 18, 2003.

Sec. 51.343. RULES. Subject to the provisions of this chapter, the commissioner shall adopt rules for the sale of timber which are considered necessary and judicious.

Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.344. APPLICATION TO PURCHASE TIMBER. An application to purchase timber shall be made in the manner provided for filing an application to purchase land.

Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.345. INGRESS AND EGRESS FROM LAND. The purchaser of timber without the land is entitled to ingress and egress on the land for a period of five years after the date of the award to remove or protect the timber on the land.

Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.346. REVERSION OF TITLE TO TIMBER. After the five-year period provided in Section 51.345 of this code, title to the timber reverts to the fund to which the land belongs and is subject to sale by the state.

Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.347. SALE OF GAYULE AND LECHUGUILLA. The board may sell the gayule or lechuguilla growing or found on the public school land, exclusive of timber.

Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.348. CONDITIONS OF SALE. The sale of gayule and lechuguilla may be on any terms and conditions and with any limitations that the board considers most advantageous and in the best interest in protecting the public school fund and the state. Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

Sec. 51.349. CONTRACTS. The board may enter into any contract including an executory contract of sale which they consider wise for the purpose of having the commercial properties and value of gayule and lechuguilla determined, but it may not spend any public money or incur any liability on behalf of the state through these contracts.

Acts 1977, 65th Leg., p. 2441, ch. 871, art. I, Sec. 1, eff. Sept. 1, 1977.

#### SUBCHAPTER I. ACQUISITION OF PUBLIC SCHOOL LAND

Sec. 51.401. SPECIAL FUND ACCOUNT. (a) The board may designate funds received from the sale of permanent school fund land under this chapter and the proceeds of future mineral leases and royalties generated from existing and future leases of permanent school fund mineral interests received under Chapters 52 and 53 for deposit in a special fund account of the permanent school fund in the State Treasury to be used by the board as provided by this subchapter.

(b) The special fund account must be an interest-bearing account, and the interest received on the account shall be deposited in the State Treasury to the credit of the permanent school fund.

(c) Money received from the sale of a particular piece of land under this subchapter must be used by the board as provided by this subchapter not later than two years after the date of the sale of land from which the money is derived. Money received from the lease of minerals and royalties derived from leases and designated for use by the board as provided by this subchapter must be used by the board not later than two years after the date the money is deposited in the special fund account.

(d) Any money remaining in the special fund account for longer than two years shall be deposited in the State Treasury to the credit of the permanent school fund.

(e) Section 403.095, Government Code, does not apply to a fund account created under this section.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 40. Amended by Acts 1993, 73rd Leg., ch. 991, Sec. 18, eff. Sept. 1, 1993; Acts 2001, 77th Leg., ch. 900, Sec. 1, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 328, Sec. 6, eff. Jan. 1, 2004; Acts 2005, 79th Leg., ch. 1098, Sec. 7, eff. June 18, 2005.

Sec. 51.402. USE OF DESIGNATED FUNDS. (a) The board may use the money designated under Section 51.401 for any of the following purposes:

(1) to add to a tract of public school land to form a tract of sufficient size to be manageable;

(2) to add contiguous land to public school land;

(3) to acquire, as public school land, interests in real property for biological, commercial, geological, cultural, or recreational purposes;

(4) to acquire mineral and royalty interests for the use and benefit of the permanent school fund;

(5) to protect, maintain, or enhance the value of public school land;

(6) to acquire interests in real estate; or

(7) to pay reasonable fees for professional services related to a permanent school fund investment.

(b) Before using funds under Subsection (a), the board must determine, using the prudent investor standard, that the use of the funds for the intended purpose is in the best interest of the permanent school fund.

(c) Notwithstanding Subsection (a), the market value of the investments in real estate under this section on January 1 of each even-numbered year may not exceed an amount that is equal to 15 percent of the market value of the permanent school fund on that date.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 40. Amended by Acts 2001, 77th Leg., ch. 900, Sec. 2, 3, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 280, Sec. 30, eff. June 18, 2003; Acts 2005, 79th

Leg., ch. 1098, Sec. 8, eff. June 18, 2005.

Sec. 51.4021. APPOINTMENT OF SPECIAL FUND MANAGERS. (a) The board may appoint investment managers to invest the money designated under Section 51.401 by contracting for professional investment management services with one or more organizations that are in the business of managing real estate investments.

(b) To be eligible for appointment under this section, an investment manager must be:

(1) registered under the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-1 et seq.);

(2) a bank as defined by that Act; or

(3) an insurance company qualified to perform real estate investment services under the laws of more than one state.

(c) In a contract under this section, the board shall specify any policies, requirements, or restrictions, including ethical standards and disclosure policies and criteria for determining the quality of investments and for the use of standard rating services, that the board adopts for real estate investments of the permanent school fund. Money designated under Section 51.401 may not be invested in a real estate investment trust, as defined by Section 200.001, Business Organizations Code.

(d) Compensation paid to an investment manager by the board must be consistent with the compensation standards of the investment industry and compensation paid by similarly situated institutional investors.

(e) Chapter 2263, Government Code, applies to investment managers appointed under this section. The board by rule shall adopt standards of conduct for investment managers appointed under this section as required by Section 2263.004, Government Code, and shall implement the disclosure requirements of Section 2263.005 of that code.

Added by Acts 2005, 79th Leg., ch. 1098, Sec. 9, eff. June 18, 2005.

Sec. 51.404. TITLE SECURITY. (a) Real property acquired under this chapter shall be conveyed to the state by warranty deed.

(b) The board may purchase or acquire title insurance for any real property purchased under this chapter.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 40. Amended by Acts 2003, 78th Leg., ch. 280, Sec. 32, eff. June 18, 2003.

Sec. 51.405. CONTRACTS FOR PURCHASE. The board may enter into contracts for the purchase of property under this subchapter.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 40.

Sec. 51.406. DEDICATION TO PERMANENT SCHOOL FUND. Land acquired under this subchapter is dedicated to the permanent school fund and is subject to sale and lease in the same manner and under the same authority as any other real property dedicated to the permanent school fund.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 40.

Sec. 51.407. RULES. The board shall adopt rules for the implementation of this subchapter.

Added by Acts 1985, 69th Leg., ch. 624, Sec. 40.

Sec. 51.408. ETHICS POLICY AND TRAINING. (a) In addition to any other requirements provided by law, the board shall adopt and enforce an ethics policy that provides standards of conduct relating to the management and investment of the funds designated under Section 51.401. The ethics policy must include provisions that address the following issues as they apply to the management and investment of the funds and to persons responsible for managing and investing the funds:

(1) general ethical standards;  
(2) conflicts of interest;  
(3) prohibited transactions and interests;  
(4) the acceptance of gifts and entertainment;  
(5) compliance with applicable professional standards;

(6) ethics training; and  
(7) compliance with and enforcement of the ethics policy.

(b) The ethics policy must include provisions applicable to:

(1) members of the board;  
(2) the commissioner;  
(3) employees of the board; and  
(4) any person who provides services to the board relating to the management or investment of the funds designated under Section 51.401.

(c) Not later than the 45th day before the date on which the board intends to adopt a proposed ethics policy or an amendment to or revision of an adopted ethics policy, the board shall submit a copy of the proposed policy, amendment, or revision to the Texas Ethics Commission and the state auditor for review and comments. The board shall consider any comments from the commission or state auditor before adopting the proposed policy.

(d) The provisions of the ethics policy that apply to a person who provides services to the board relating to the management or investment of the funds designated under Section 51.401 must be based on the Code of Ethics and the Standards of Professional Conduct prescribed by the Association for Investment Management and Research or other ethics standards adopted by another appropriate professionally recognized entity.

(e) The board shall ensure that applicable provisions of the ethics policy are included in any contract under which a person provides services to the board relating to the management and investment of the funds designated under Section 51.401.

Added by Acts 2005, 79th Leg., ch. 1098, Sec. 9, eff. June 18, 2005.

Sec. 51.409. DISCLOSURE OF CONFLICTS OF INTEREST AND FINANCES. (a) A member of the board, the commissioner, an employee of the board, or a person who provides services to the board that relate to the management or investment of the funds designated under Section 51.401 who has a business, commercial, or other relationship that could reasonably be expected to diminish the person's independence of judgment in the performance of the person's responsibilities relating to the management or investment of the funds shall disclose the relationship in writing to the board.

(b) The board or the board's designee shall, in the ethics policy adopted under Section 51.408, define the kinds of relationships that may create a possible conflict of interest.

(c) A person who is required to file a disclosure statement under Subsection (a) shall refrain from giving advice or making decisions about matters affected by the conflict of interest unless the board, after consultation with the general counsel of the board, expressly waives this prohibition. The board shall maintain a written record of each waiver and the reasons for it. The board may delegate the authority to waive prohibitions under this subsection to one or more designated employees of the land office on a vote of a majority of the members of the board at an open meeting called and held in compliance with Chapter 551, Government Code. The board shall have any order delegating authority to waive prohibitions under this section entered into the minutes of the meeting. The board may adopt criteria for designated employees to use to determine the kinds of relationships that do not constitute a material conflict of interest for purposes of this subsection.

(d) Each employee of the board who exercises significant decision-making or fiduciary authority, as determined by the board, shall file financial disclosure statements with a person designated by the board. The content of a financial disclosure statement must comply substantially with the requirements of Subchapter B, Chapter 572, Government Code. A statement must be filed not later than the 30th day after the date a person is employed in a significant decision-making or fiduciary position and annually after employment not later than April 30. The filing deadline may be postponed by the board for not more than 60 days on written request or for an additional period for good cause, as determined by the chairman of the board. The board shall maintain a financial disclosure statement for at least five years after the date of its filing.

Added by Acts 2005, 79th Leg., ch. 1098, Sec. 9, eff. June 18, 2005.

Sec. 51.410. REPORTS OF EXPENDITURES. A consultant, advisor, broker, or other person providing services to the board relating to the management and investment of the funds designated under Section 51.401 shall file with the board regularly, as determined by the board, a report that describes in detail any expenditure of more than \$50 made by the person on behalf of:

- (1) a member of the board;
- (2) the commissioner; or
- (3) an employee of the board.

Added by Acts 2005, 79th Leg., ch. 1098, Sec. 9, eff. June 18, 2005.

Sec. 51.411. FORMS; PUBLIC INFORMATION. (a) The board shall prescribe forms for:

- (1) statements of possible conflicts of interest and



waivers of possible conflicts of interest under Section 51.409; and

(2) reports of expenditures under Section 51.410.

(b) A statement, waiver, or report described by Subsection (a) is public information.

(c) The board shall designate an employee of the board to act as custodian of statements, waivers, and reports described by Subsection (a) for purposes of public disclosure.

Added by Acts 2005, 79th Leg., ch. 1098, Sec. 9, eff. June 18, 2005.

Sec. 51.412. REPORTS TO LEGISLATURE. (a) Not later than September 1 of each even-numbered year, the board shall submit to the legislature a report that, specifically and in detail, assesses the direct and indirect economic impact, as anticipated by the board, of the investment of funds designated under Section 51.401 for deposit in the special fund account of the permanent school fund. The board may not disclose information under this section that is confidential under applicable state or federal law. The report must include the following information:

(1) the total amount of money designated by Section 51.401 for deposit in the special fund account of the permanent school fund that the board intends to invest;

(2) the rate of return the board expects to attain on the investment;

(3) the amount of money the board expects to distribute to the permanent school fund after making the investments;

(4) the distribution of the board's investments by county;

(5) the effect of the board's investments on the level of employment, personal income, and capital investment in the state; and

(6) any other information the board considers necessary to include in the report.

(b) Not later than January 1 of each odd-numbered year, the board shall submit to the legislature a report that assesses the return and economic impact of the investments reported to the legislature before the preceding regular legislative session.

Added by Acts 2005, 79th Leg., ch. 1098, Sec. 9, eff. June 18, 2005.

#### SUBCHAPTER J. GRANTS

Sec. 51.501. APPLICATION FOR GRANT. A lessee of real property owned by the permanent school fund and used for grazing or agricultural purposes may apply to the commissioner for a grant to construct a permanent improvement on the leased property.

Added by Acts 2003, 78th Leg., ch. 1091, Sec. 31, eff. June 20, 2003.

Sec. 51.502. SOURCE OF GRANT MONEY. A grant under this subchapter shall be made from money collected for surface damages under Sections 52.297 and 53.155.

Added by Acts 2003, 78th Leg., ch. 1091, Sec. 31, eff. June 20, 2003.

Sec. 51.503. APPRAISAL REQUIRED. (a) Before a grant is made under Section 51.501, an appraiser employed by the land office must appraise the effect of the improvement for which a grant is sought on the value of the permanent school fund property.

(b) If the appraiser finds that the improvement will increase the value of the real property in an amount at least equal to the amount the improvement will cost, the commissioner may authorize the disbursement of money to construct the improvement.

Added by Acts 2003, 78th Leg., ch. 1091, Sec. 31, eff. June 20, 2003.

Sec. 51.504. EVIDENCE OF EXPENDITURE REQUIRED. The commissioner shall require each lessee who receives a grant to provide copies of receipts, vouchers, or other evidence of expenditures for the improvement.

Added by Acts 2003, 78th Leg., ch. 1091, Sec. 31, eff. June 20, 2003.

Sec. 51.505. IMPROVEMENTS: REAL PROPERTY OF PERMANENT SCHOOL FUND. Any improvement constructed with money disbursed under this subchapter is the real property of the permanent school fund.

Added by Acts 2003, 78th Leg., ch. 1091, Sec. 31, eff. June 20, 2003.

Sec. 51.506. MAINTENANCE. As a condition for a grant under this subchapter, the commissioner shall require the grantee to agree in writing to maintain the improvement in a manner that will

protect the best interest of the permanent school fund.  
Added by Acts 2003, 78th Leg., ch. 1091, Sec. 31, eff. June 20, 2003.

Sec. 51.507. RULES. The commissioner shall adopt rules as necessary to administer this subchapter, including rules establishing a procedure for applying for a grant under Section 51.501 and for monitoring the maintenance of the improvement.  
Added by Acts 2003, 78th Leg., ch. 1091, Sec. 31, eff. June 20, 2003.